Subject Index

Page

Statutes and constitutional provisions involved 2

Questions presented 8

Argument 8

I. Does the freedom of religion encompass the right to use non-prescription narcotics, the possession of which is declared to be a crime under state law? 8

II. Assuming the freedom of religion encompasses the right to use narcotics, does that right require the implementation of certain procedural safeguards and if so, does California law satisfy that requirement?... 14

III. Is the seizure of evidentiary items incident to arrest valid if such articles are relevant to establish the arrestee's commission of a crime? 18

Conclusion 18

Table of Authorities Cited

Cases Pages

A Quantity of Books v. Kansas, 378 U.S. 205, 12 L.Ed.2d 809, 84 S.Ct. 1723 (1964) 15, 16

American Communications Asso. v. Douds, 339 U.S. 382, 94 L.Ed. 925, 70 S.Ct. 674 (1949) 8, 11

Braunfeld v. Brown, 366 U.S. 599, 6 L.Ed.2d 563, 81 S.Ct. 1144 (1961) 11

Cantwell v. Connecticut, 310 U.S. 296, 84 L.Ed. 1213, 60 S.Ct. 900 (1940) 10

Davis v. Beason, 133 U.S. 333, 33 L.Ed. 637, 10 S.Ct. 299 (1889) 9, 10, 13

Everson v. Board of Education, 330 U.S. 1, 91 L.Ed. 711 67 S.Ct. 504 (1946) 11

Pages

Fowler v. Rhode Island, 345 U.S. 67, 97 L.Ed. 828, 73 S.Ct. 526 (1952) 11

Gillette v. United States, 401 U.S. 437, 28 L.Ed.2d 168, 91 S.Ct. 828 (1971) 11
Golden Eagle v. Johnson, 493 F.2d 1179 (9th Cir., 1974) ..15, 16

In re Grady, 61 Cal.2d 887, 39 Cal.Rptr. 912, 394 P.2d 728 (1964) 15

Jennings v. Superior Court, 66 Cal.2d 867, 59 Cal.Rptr. 440, 428 P.2d 304 (1967) 17

McGowan v. Maryland, 366 U.S. 420, 6 L.Ed.2d 393, 81 S.Ct. 1101 (1961) 11
Murdock v. Pennsylvania, 319 U.S. 105, 87 L.Ed. 1292, 63 S.Ct. 870 (1943) 10, 11

Paris Adult Theater I v. Slaton, 413 U.S. 49, 37 L.Ed.2d 446, 93 S.Ct. 2628 (1973) 13
People v. Williams, 5 Cal.3d 211, 95 Cal.Rptr. 530, 485 P.2d 1146 (1971) 14, 18
People v. Woody, 61 Cal.2d 716, 41 Cal.Rptr. 69, 394 P.2d 813 (1964) 12, 13, 15, 16
Pierson v. Ray, 386 U.S. 547, 18 L.Ed.2d 288, 87 S.Ct. 1213 (1967) 14, 15
Prince v. Massachusetts, 321 U.S. 158, 88 L.Ed. 645, 64 S.Ct. 438 (1944) 11

Reynolds v. United States, 98 U.S. 145, 32 L.Ed. 28 (1879) 8, 9, 10

Stanley v. Georgia, 394 U.S. 557, 22 L.Ed.2d 542, 87 S.Ct. 1243 (1969) 14

United States v. 12 200-ft. Reels, 413 U.S. 123, 37 L.Ed.2d 500, 93 S.Ct. 2655 (1973) 14
United States v. Ballard, 322 U.S. 78, 88 L.Ed. 1148, 64 S.Ct. 882 (1943) 11
United States v. Orito, 413 U.S. 139, 37 L.Ed.2d 513, 93 S.Ct. 2674 (1973) 14
United States v. Robinson, 414 U.S. 218, ... 38 L.Ed.2d 427, 94 S.Ct. 467 (1973) 16

Pages

Warden v. Hayden, 387 U.S. 294, 18 L.Ed.2d 782, 87 S.Ct. 1643 (1967) 18

Wisconsin v. Yoder, 406 U.S. 205, 22 L.Ed.2d 15, 92 S.Ct. 1526 (1972) 10

Codes

Health and Safety Code:

Section 11032 (West Supp. 1974) 3, 13

Section 11054 (West Supp. 1974) 4, 13

Penal Code:

Section 825 (West 1970) 2, 16

Section 859b (West Supp. 1974) 3

Constitutions

California Constitution, Art. I, Sec. 4 (West 1954) 2, 13

United States Constitution, Amendment I 13, 17

Rules

Supreme Court Rules:

Rule 24 8

Rule 40 8

In the Supreme Court
OF THE
United States

OCTOBER TERM 1974

No. 74-105

GOLDEN EAGLE, also known at Lee Roy Austine,
Petitioner,

v.

DEPUTY SHERIFF JOHNSON, DEPUTY SHERIFF DARWIN L. HALL, DEPUTY SHERIFF COOPER, CALIFORNIA HIGHWAY PATROLMAN PETERS, CALIFORNIA HIGHWAY PATROLMAN HEERD, SERGEANT LENAHAN, OLIVER ROBINSON, OLIVER ROSTAIN, ROBERT B. VANDERNOOR, RICHARD W. BRADSHAW, WALTER H. CONDLEY, ROBERT T. BACA, JUDGE WALTER OSBORN and KIT NELSON,
Respondents.

RESPONDENTS' BRIEF
IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

Other than the statutes and constitutional provisions set forth in the petition, respondents direct the court's attention to the following provisions:

1. Cal. Const. Art. I, §4 (West 1954):

"The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State."

2. Cal. Pen. Code §825 (West 1970):

The defendant must in all cases be taken before the magistrate without unnecessary delay, and, in any event, within two days after his arrest, excluding Sundays and holidays; provided, however, that when the two days prescribed herein expire at a time when the court in which the magistrate is sitting is not in session, such time shall be extended to include the duration of the next regular court session on the judicial day immediately following.

After such arrest, any attorney at law entitled to practice in the courts of record of California, may, at the request of the prisoner or any relative of such prisoner, visit the person so arrested. Any officer having charge of the prisoner so arrested who willfully refuses or neglects to allow such attorney to visit a prisoner is guilty of

a misdemeanor. Any officer having a prisoner in charge, who refuses to allow any attorney to visit the prisoner when proper application is made therefor, shall forfeit and pay to the party aggrieved the sum of five hundred dollars ($500), to be recovered by action in any court of competent jurisdiction.

3. Cal. Pen. Code §859b (West Supp. 1974):

At the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty in accordance with Section 859a, the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor as provided in Section 859, must set a time for the examination of the case and must allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. He must also issue subpoenas, subscribed by him, for witnesses within the state, required either by the prosecution or the defense. *Unless the defendant waives the right, the defendant if he is in custody shall have the right to preliminary examination within 10 court days of the date he is arraigned or pleads, whichever occurs later.*

4. Cal. Health and Safety Code §11032 (West Supp. 1974):

Whenever reference is made to the term "narcotics" in any provision of law outside of this division, unless otherwise expressly provided, it shall be construed to mean controlled substances classified in Schedules I and II, as defined in

this division. Whenever reference is made to "restricted dangerous drugs" outside of this division, unless otherwise expressly provided, it shall be construed to mean controlled substances classified in Schedules III and IV. Whenever reference is made to the term "marijuana" in any provision of law outside of this division, unless otherwise expressly provided, it shall be construed to mean marijuana as defined in this division.

5. Cal. Health and Safety Code §11054 (West Supp. 1974):

(a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acethlmethadol.

(2) Allyprodine.

(3) Alphacetylmethadol.

(4) Alphameprodine.

(5) Alphamethadol.

(6) Benzethidine.

(7) Betacetylmethadol.

(8) Betameprodine.

(9) Betamethodol.

(10) Betaprodine.

(11) Clonitazene.

(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.

(40) Properidine.

(41) Propiran.

(42) Racemoramide.

(43) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.

(2) Acetyldihydrocodeine.

(3) Benzylmorphine.

(4) Codeine methylbromide.

(5) Codeine-N-oxide.

(6) Cyprenorphine.

(7) Desomorphine.

(8) Dihydromorphine.

(9) Etorphine.

(10) Heroin.

(11) Hydromorphinol.

(12) Methyldesorphine.

(13) Methyldihydromorphine.

(14) Morphine methylbromide.

(15) Morphine methylsulfonate.

(16) Morphine-N-oxide.

(17) Myrophine.

(18) Nicocodeine.

(19) Nicomorphine.

(20) Normorphine.

(21) Phoclodine.

(22) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.

(2) 5-methoxy-3,4-methylenedioxy amphetamine.

(3) 3,4,5-trimethoxy amphetamine.

(4) Bufotenine.

(5) Diethyltryptamine.

(6) Dimethyltryptamine.

(7) 4-methyl-2,5-dimethoxylamphetamine.

(8) Ibogaine.

(9) Lysergic acid diethylamide.

(10) Marijuana.

(11) Mescaline.

(12) Peyote.

(13) N-ethyl-3-piperidyl benzilate.

(14) N-methyl-3-piperidyl benzilate.

(15) Psilocybin.

(16) Psilocyn.

(17) Tetrahydrocannabinols.

QUESTIONS PRESENTED

I. Does the freedom of religion encompass the right to use non-prescription narcotics, the possession of which is declared to be a crime under state law?

II. Assuming the freedom of religion encompasses the right to use narcotics, does that right require the implementation of certain procedural safeguards and if so, does California law satisfy that requirement?

III. Is the seizure of evidentiary items incident to arrest valid if such articles are relevant to establish the arrestee's commission of a crime?[1]

ARGUMENT

I. DOES THE FREEDOM OF RELIGION ENCOMPASS THE RIGHT TO USE NON-PRESCRIPTION NARCOTICS, THE POSSESSION OF WHICH IS DECLARED TO BE A CRIME UNDER STATE LAW?

The freedom of religion is one of the most cherished freedoms in any libertarian society such as ours. Nevertheless, that freedom is not absolute. See *American Communications Asso. v. Douds,* 339 U.S. 382, 398, 94 L.Ed. 925, 943, 70 S.Ct. 674, 683-684 (1949). Nearly a century ago in *Reynolds v. United States,* 98 U.S. 145, 32 L.Ed. 28 (1879) this court held that the practice of polygamy pursuant to good faith religious beliefs was nevertheless punishable as a crime as it had been at common law. In so holding, the court observed:

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[1]Pursuant to the provisions of Rules 24 and 40 of the Supreme Court Rules, the jurisdictional statement and the statement of the case have been omitted for purposes of brevity.

> "Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice?
>
> "So here, as a law of the organization of society under the exclusive dominion of the United States, it is provided that plural marriages shall not be allowed. Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious beliefs superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist in name only under such circumstances." *Reynolds v. United States, supra,* 98 U.S. at 166-167, 21 L.Ed. at 250.

Again, in *Davis v. Beason,* 133 U.S. 333, 33 L.Ed. 637, 10 S.Ct. 299 (1889) the court reaffirmed the principles established under *Reynolds* and went on to state:

> "It is assumed by counsel of the petitioner that, because no mode of worship can be established or religious tenets enforced in this country, therefore, any form of worship may be followed and any tenets, however destructive of society, may be held and advocated, if asserted to be part of the religious doctrines of those advocating and practicing them. But nothing is further from the truth. Whilst legislation for the establishment of

> religion is forbidden, and its free exercise permitted, it does not follow that everything which may be so called can be tolerated. Crime is not the less odious because sanctioned by what any particular sect may designate as religion." *Davis v. Beason, supra,* 133 U.S. at 345 33 L.Ed. at 641.

The rule of law enunciated by the court in the *Reynolds* and *Davis* cases—that Congress and the states have no power over religious beliefs but are completely free to regulate practices—has been extensively eroded by the court over the years and has recently come into disfavor. See *Wisconsin v. Yoder,* 406 U.S. 205, 219-220, 22 L.Ed.2d 15, 27-28, 92 S.Ct. 1526, 1535-1536 (1972). The underlying theme of *Reynolds* and *Davis,* however, that the states' interest in promoting the "health, safety and general welfare" of the people, is still prevalent. *Wisconsin v. Yoder, supra.*

The recent decisions of this court indicate that the government's interest in promulgating the regulation in question must be weighed against the claim of religious freedom. When the government's interest in regulating certain conduct is considered minimal, that interest will not overcome a bona fide claim of religious practice. *Wisconsin v. Yoder, supra; Murdock v. Pennsylvania,* 319 U.S. 105, 87 L.Ed. 1292, 63 S.Ct. 870 (1943); *Cantwell v. Connecticut,* 310 U.S. 296, 303-304, 84 L.Ed. 1213, 1217-1218, 60 S.Ct. 900 (1940). Where, however, the governmental interest in proscribing certain conduct is legitimately strong and of sufficient importance, is deemed to be overriding, the claim of religious freedom notwithstanding. See

Gillette v. United States, 401 U.S. 437, 28 L.Ed.2d 168, 91 S.Ct. 828 (1971); *Braunfeld v. Brown,* 366 U.S. 599, 6 L.Ed.2d 563, 81 S.Ct. 1144 (1961); *Prince v. Massachusetts,* 321 U.S. 158, 88 L.Ed. 645, 64 S.Ct. 438 (1944).

Accordingly, the underlying theme of *Reynolds* and *Davis*—that the government's interest in protecting its citizens is essential to the maintenance of good government—has been repeatedly reaffirmed by the court in a variety of contexts. See e.g. *McGowan v. Maryland,* 366 U.S. 420, 6 L.Ed.2d 393, 81 S.Ct. 1101 (1961); *Fowler v. Rhode Island,* 345 U.S. 67, 97 L.Ed. 828, 73 S.Ct. 526 (1952); *American Communications Asso. v. Douds,* 339 U.S. 382, 94 L.Ed. 925, 70 S.Ct. 674 (1949); *United States v. Ballard,* 322 U.S. 78, 88 L.Ed. 1148, 64 S.Ct. 882 (1943); *Murdock v. Pennsylvania,* 319 U.S. 105, 87 L.Ed. 1292, 63 S.Ct. 870 (1943).

As Mr. Justice Rutledge so aptly observed in his dissent in *Everson v. Board of Education,* 330 U.S. 1, 32, 91 L.Ed. 711, 732, 67 S.Ct. 504, 519 (1946):

> "It [the First Amendment] secures all forms of religious expression, credal, sectarian, or non-sectarian, whenever and however taking place, except conduct which trenches upon the like freedom of others or clearly and presently endangers the community's good order and security."

Petitioner's implicit claim, that the use of peyote for religious purposes, or for any purpose, does not significantly infringe upon the legitimate interest of California in proscribing the use of non-prescription narcotics is not well founded. Indeed, petitioner's complaint does not even allege that peyote is not a

harmful substance when ingested, but only makes the bare assertion that peyote is "non-addictive." (T.R. 5)

In view of the presently alarming increase in the rate of violent crimes and its admitted connection to the increase in illicit drug use, California's interest in proscribing possession of such substances cannot be said to be minimal. Rather, the state has an overriding interest in protecting its inhabitants from violent or otherwise offensive acts committed by persons who are either under the influence of narcotics or from persons seeking to rob or burglarize in order to purchase such drugs. Moreover, the state's interest in preventing its subjects from engaging in a self-destructive course of conduct through the use of admittedly harmful non-prescription narcotics is equally overriding.[2]

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[2]At this point, these respondents wish to point out why they feel the California Supreme Court's decision in *People v. Woody*, 61 Cal. 2d 716, 40 Cal. Rptr. 69, 394 P. 2d 813 (1964) is erroneous.

First, the court in that case appeared to place considerable reliance on the importance of peyote to the Native American Church, stating "it [peyote] is the sole means by which defendants are able to experience their religion." 61 Cal. 2d at 725. By delving so deeply into the tenets of the particular faith, however, the court violated the universal rule that Courts must not become involved in religious questions. Upon being confronted with a claim of religious freedom and deciding that such belief is held in good faith, the judicial inquiry should end with the presumption that the exercise of the religious practice is essential to the practice of the faith. For a court is not qualified to measure the values of any particular religion or even to determine whether that religion has any values at all.

Secondly, in weighing the competing interest of the state and the members of the church, the court stated "the use of peyote presents only slight dangers to the state." 61 Cal. 2d at 727. Although this comment discloses that the court made somewhat of a legislative type decision, that observation can no longer be given much weight. The *Woody* case was decided in 1964, before the heavy onslaught of dangerous drug use in this country occurring in the late 1960s, and before the resultant crime wave which we are currently experiencing.

Thirdly, the court in *Woody* seemed to confine its consideration to the particular drug in question: peyote; as does petitioner in

Indeed this court recently acknowledged the significance of the state's interest in proscribing such activities as prostitution, suicide, voluntary self-mutilation, brutalizing "bare fist" prize fights, duels, bigamy, adultry, fornication, "white slavery", billiard halls, gambling, and the like. *Paris Adult Theater I v. Slaton,* 413 U.S. 49, 68, 37 L.Ed.2d 446, 463-464, 93 S.Ct. 2628, 2641, fn. 15 (1973).

These respondents thus submit that California's interest in proscribing the possession of non-prescription narcotics overrides petitioner's claim of religious freedom. The claim of constitutional protection, it is submitted, cannot be validated by this court if our society is to remain one of "ordered liberty." Remembering the words of the court in *Davis v. Beason, supra,* "Crime is not the less odious because sanctioned by what any particular sect may designate as religion."[3]

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the present case. Such an analysis, it is submitted, is not well founded because (1) the breadth of that holding would apply to all drugs as well as other self-destructive practices condemned in *Paris Adult Theater I v. Slaton,* 413 U.S. 49, 68, 37 L. Ed. 2d 446, 463-464, 93 S. Ct. 2626, 2641, fn. 15, particularly in view of the fact that the California Legislature has classified peyote as a narcotic along with numerous other substances of like content. Cal. Health & Safety Code §§11032, 11054 (West Supp. 1974); and (2) in view of many of the recent studies undertaken by private groups as well as the government, it cannot be said that the use of one drug does not lead to the use of others which are equally self-destructive.

Additionally, it is to be noted that *People v. Woody, supra,* rested on the religious freedom encompassed within Cal. Const. Art. I, §4 as well as the First Amendment to the Constitution. *People v Woody, supra,* 61 Cal. 2d at 718 fn. 1. Accordingly, that decision was not reviewable by this court although it admittedly purported to be an authoritative interpretation of the First Amendment as well.

[3]As an alternative to the above argument, these respondents respectfully direct the court's attention to the fact that petitioner's arrest occurred while he was transporting the subject peyote from the Navajo Indian Reservation to his home in Los Altos, California,

II. ASSUMING THE FREEDOM OF RELIGION ENCOMPASSES THE RIGHT TO USE NARCOTICS, DOES THAT RIGHT REQUIRE THE IMPLEMENTATION OF CERTAIN PROCEDURAL SAFEGUARDS AND IF SO, DOES CALIFORNIA LAW SATISFY THAT REQUIREMENT?

Conceding for purposes of argument that petitioner's use and possession of peyote is protected by the freedom of religion encompassed within the First Amendment, petitioner's complaint nevertheless fails to establish a cause of action under the Civil Rights Act.

When a police officer makes an arrest in good faith and with probable cause to believe that a crime has been or is being committed, he is immune from liability under the Civil Rights Act. *Pierson v. Ray,* 386 U.S. 547, 18 L.Ed.2d 288, 87 S.Ct. 1213 (1967). Petitioner does not contend that his knowing possession of the peyote did not establish a prima facie case under California law. See *People v. Williams,* 5 Cal.3d 211, 215, 95 Cal.Rptr. 530, 485 P.2d 1146 (1971). Rather, petitioner's only dispute with the validity of the arrest is his contention that his possession of the peyote was protected by the First Amendment. Assuming the validity of this position, however, it neverthe-

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a journey of considerable distance. (T.R. 5-6) In other words, petitioner was not using the peyote for religious purposes during the time period with which this action is concerned, and his activities were not even alleged to be connected with his use of the peyote for religious purposes. On the basis of such facts, it is submitted that whatever privilege might surround petitioner's actual use of the peyote for religious purposes in private, e.g., *Stanley v. Georgia,* 394 U.S. 557, 22 L. Ed. 2d 542, 87 S. Ct. 1243 (1969), such privilege has no application to the transportation of illicit drugs on public thoroughfares. *United States v. 12 200-ft. Reels,* 413 U.S. 123, 37 L. Ed. 2d 500, 93 S. Ct. 2655 (1973); *United States v. Orito,* 413 U.S. 139, 37 L. Ed. 2d 513, 93 S. Ct. 2674 (1973).

less appears that the religious purposes for which the peyote was possessed is a defense to the crime charged under California law rather than an element of the prosecution's case, and thus the burden of proving that defense is on the accused. *In re Grady,* 61 Cal.2d 887, 39 Cal.Rptr. 912, 394 P.2d 728 (1964). Accordingly, in view of the fact that petitioner's on-the-scene admission, coupled with the seizure of the peyote established all the necessary elements of the crime charged under California law, probable cause to arrest petitioner clearly existed and these respondents are immune from liability regardless of the subsequent outcome of the criminal proceedings. *Pierson v. Ray, supra.* As the Circuit Court of Appeals so aptly observed, ". . . it surely must be recognized that those charged with law enforcement cannot expect to be curbside evaluators of the good faith of asserted religious beliefs . . ." *Golden Eagle v. Johnson,* 493 F.2d 1179 (9th Cir., 1974).

This observation alone adequately distinguishes *A Quantity of Books v. Kansas,* 378 U.S. 205, 12 L.Ed.2d 809, 84 S.Ct. 1723 (1964) and other cases relied on by petitioner. In those cases, a prior adversary hearing to determine the question of obscenity was deemed compelled by the First Amendment. The fact that the materials were obscene, however, was an element of the crime or the cause of action for seizure and confiscation and, therefore, must be established by the government. In the case of possessing peyote for religious purposes, however, the statutes proscribing their possession are admittedly valid on their face and at best are only unconstitutional when applied to an accused who establishes that his possession was strictly for religious purposes. See *People v. Woody,* 61

Cal.2d 716, 717-718, 41 Cal.Rptr. 69, 394 P.2d 813 (1964).[4]

Petitioner's contention that the state should be required to implement further "procedural safeguards" allowing for a speedy resolution of the religious freedom question is thus unsound.

Though petitioner frames his argument in terms of "pre-arrest" safeguards, that characterization is misleading. As noted in the opinion of the Circuit Court of Appeals, even petitioner concedes that the accused must be taken into "protective custody" pending the outcome of the "pre-arrest" hearing which petitioner advocates. *Golden Eagle v. Johnson, supra,* 493 F.2d at 1182. Such custody of an accused, for whatever reason, is obviously an arrest. *United States v. Robinson,* 414 U.S. 218, ... 38 L.Ed.2d 427, 440, 94 S.Ct. 467, 476 (1973).[5] Apparently then, the only disagreement between petitioner and these respondents is the amount of time which an accused must suffer incarceration.

Under California law, an individual who is arrested must be arraigned before a magistrate within two days after his arrest. Cal. Pen. Code §825 (West 1970). Within 10 court days thereafter, an accused

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[4]Furthermore, *A Quantity of Books v. Kansas, supra,* is also distinguishable, as the Circuit Court of Appeals noted, on the grounds that that case involved, in addition to the owners First Amendment Rights, the further right of the public to receive information and ideas. No such right is present in the instant case.

[5]It is also noted that any distinction implicit in petitioner's argument between an "arrest" and "custody" is meritless since both involve identical restrictions on the individual's freedom of movement and permit the incarcerating authorities to exercise control over his person and possessions. *U.S. v. Robinson, supra.*

who is in custody is entitled to a preliminary hearing. Cal. Pen. Code §859b (West Supp. 1974). At the preliminary hearing, the accused is afforded all his due process rights, is permitted to raise his defense, and is entitled to be discharged if he successfully does so. *Jennings v. Superior Court,* 66 Cal.2d 867, 59 Cal. Rptr. 440, 428 P.2d 304 (1967).

Such procedures, it is submitted, constitute an adequate vehicle through which an accused such as petitioner can raise his defense of possessing narcotics for religious purposes.

Indeed petitioner does not even specify a maximum time within which an accused raising such a defense should be "in protective custody" pending the "adversary hearing" proposed. Whatever length of time petitioner might possibly propose, however, it would appear that the difference in the time element between that which might be proposed and those which already exist is minimal and thus any changes should be left to the discretion of the appropriate legislative body.[6]

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[6]At this juncture, it is also pertinent to note that to establish further procedural safeguards for accused persons claiming religious defenses above and beyond that which other accused individuals are entitled to would come dangerously close to and might even constitute an "establishment of religion" prohibited by the First Amendment.

III. IS THE SEIZURE OF EVIDENTIARY ITEMS INCIDENT TO ARREST VALID IF SUCH ARTICLES ARE RELEVANT TO ESTABLISH THE ARRESTEE'S COMMISSION OF A CRIME?

Petitioner's further contention that the seizure of religious articles contained in the box where the peyote was found was invalid is meritless.

Under California law, the elements of the crime of possessing narcotics are "physical or constructive possession thereof coupled with knowledge of the presence and narcotic character of the drug." *People v. Williams,* 5 Cal.3d 211, 215, 95 Cal.Rptr. 530, 485 P.2d 1146 (1971). The religious paraphernalia was relevant to establish that petitioner had knowledge of the presence of the peyote (since those items belonged to him and were located near the peyote) and that petitioner had knowledge of the narcotic character of the peyote (since the articles tended to establish the purpose for which the peyote was used, and thus by implication, that petitioner was aware of that purpose). Accordingly, a sufficient "nexus" between the seized articles and the crime for which petitioner was arrested was present since those items would aid the prosecution in establishing the elements of the crime. *Warden v. Hayden,* 387 U.S. 294, 306-307, 18 L.Ed.2d 782, 791-792, 87 S.Ct. 1643, 1649-1650 (1967).

CONCLUSION

On the basis of the foregoing, it is submitted that the use of non-prescription narcotics declared to be illegal by state law is not and cannot be protected

under the free exercise clause of the First Amendment. Such conduct is dangerous to society and to the individual, and the state's interest in proscribing its use overrides the competing claim of religious freedom.

Furthermore, these respondents are immune from liability for making an arrest with probable cause, even if petitioner's claim of religious freedom is a valid defense. Such a defense can only be tendered in the orderly course of criminal proceedings which provide a speedy and adequate remedy for an accused seeking to raise this defense.

For the above reasons, respondents pray that the petition for writ of certiorari be denied.

Respectfully submitted,

LOWELL T. CARRUTH,
JAMES P. WAGONER,
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